IN THE HON'BLE HIGH COURT OF JUDICATURE OF BOMBAY AT PORVORIM, GOA

W.P. No. 1096 / 2025 [F]

M/S. DESSAI LOGISTICS …Petitioner

V/s

STATE OF GOA & ORS …Respondents

AFFIDAVIT IN REPLY OF THE RESPONDENT NO. 9

I, Dr Claude Alvares, Secretary of the Goa Foundation, the Resp. No. 9 herein, do hereby solemnly state and submit as under:

1. I state that I am filing this affidavit in reply *inter alia* to the legal issues raised in this petition. I state that I am not replying to each and every statement and averment made in this petition, and nothing may be deemed to be admitted unless the same is specifically admitted herein but should be treated as though the same has been set out seriatim and denied and disputed specifically.

2. I deny all the contentions, averments and allegations made by the Petitioner in the captioned Petition, which are inconsistent with and/or contrary to all that is set out herein. The answering Respondent has its own petition P.I.L. W.P. 27/2024 pending in this Hon'ble Court challenging the order of the Chief Wildlife Warden dt. 04.04.2024. This Respondent is filing the present reply for the limited purpose of dealing with the legal issues purported to be raised in the captioned petition, and is not dealing with the Petition paragraph wise. This Respondent however reserves its right and craves leave of this Hon'ble Court to file a detailed affidavit in reply at a later stage.

3. Through this affidavit I say that three crucial aspects pertaining to the challenge raised in this petition are being brought to the notice of the Court - i) That the petitioner is not a 'resident' of the Bhagwan Mahavir Sanctuary for the purposes of the WLPA; ii) That the challenge to the applicability of S. 28 of the WLPA is without merit; and iii) That this petition is not maintainable at the instance of this petitioner, who has also approached this court with unclean hands.

(i) Petitioner is not a 'resident' of the WLS

4. Firstly, I state and submit that in proceedings before the C.W.W. [*prior to passing of the order dated 04.04.2024*], as well as in this petition, the Petitioner has made out that it is a 'resident' of the sanctuary for the purpose of S. 28(e) of the WLPA. This information is false. The petitioner indeed

resides in Kalay village, but his residence is outside the boundary of the wildlife sanctuary. The office of the petitioner is located in the city of Margao.

5. The C.W.W. in passing the order dt. 04.04.2024 has incorrectly concluded that the petitioner is a 'resident' of the Bhagwan Mahavir WLS, and on that basis, granted a permit under S. 28(e) to M/s. Vedanta Ltd. and South Western Railways to enter the Sanctuary and carry on business with such 'resident'. Since the petitioner does not reside in the WLS, there is no question of a permit being issued by the CWW under S. 28 to carry on business with him.

6. The above finding of the C.W.W. *qua* the petitioner being a 'resident' of the WLS is directly disputed and challenged by the answering Respondent in its own petition bearing no. PILWP 27/2024, which is pending in this Hon'ble Court. The said petition challenges the order of the C.W.W. on multiple grounds; and as being without application of mind and contrary to facts and material documents.

(ii) Issue regarding non-applicability of S. 28 is without merit

7. Without prejudice to the position of the answering Respondent that the Petitioner is not a 'resident' of the WLS for the purposes of the Wildlife Protection Act, I state that I am dealing with the legal issue raised in this petition on merits, in relation to the order of the C.W.W. dt. 04.04.2024.

8. Section 28 of the Wildlife Protection Act deals with the power of the Chief Wildlife Warden to permit the *entry or residency* of a person inside a Notified Sanctuary for certain purposes. The order of the C.W.W. dt. 04.04.2024 grants a permit to the Railways and M/s. Vedanta Ltd. under clause (e) of Section 28, i.e., for the purpose of transacting lawful business with any person residing in the sanctuary.

9. The principal challenge raised by M/s. Dessai Logistics in this case [*paras 39 – 42 of this petition*] is that S. 28(e), under which the C.W.W. has issued an order, is not applicable in this case, as according to the petitioner, the said provision would come into operation only when the 'lawful business' sought to be carried out is in respect of forest products.

10. I submit that this challenge is entirely without merit, and based on an incorrect reading of the provisions of the WLPA. It is well settled that statutes have to be given effect to in the terms as set out in the law, and words cannot be introduced or removed to suit a particular interpretation. I submit that when the law itself, i.e. S. 28(e) does not contain any scope/restriction on the nature of the 'business' contemplated by the Section, there is absolutely no basis for the interpretation sought to be canvassed by the Petitioner, which has to be rejected outright.

(iii) Re. maintainability of WP, and conduct of petitioner

11. The impugned condition no. (b) of the order of the Chief Wildlife Warden dt. 04.04.2024 directs the Railway authority [*South Western Railways*] to apply with the MOEF&CC for approval under S. 29 of the Wildlife Protection Act. There is no direction in as far as the petitioner M/s. Dessai Logistics is concerned, and the Railways have not challenged the said condition '(b)' of the order.

12. In these circumstances, the answering Respondent submits that the challenge raised in this petition is not maintainable on behalf of the petitioner (*who is simply a contractor carrying out the work on behalf of other parties and therefore lacks standing)*, when the principal party which is engaging the work i.e. *SWR* has accepted the condition no. (b) and has duly applied for approval under S. 29.

13. The deponent further submits that even on account of the conduct of the petitioner, this petition should not be entertained and ought to be dismissed *in limine*. The 'local residence' claimed by the proprietor of the Petitioner is located on forest land illegally encroached by him and/or his family bearing Sy. No. 133/6, Kalay village, which is notified as a proposed Reserve Forest under S. 4 of the Indian Forest Act, 1927. The statutory authorities have been directed by the Deputy Collector (Revenue), South Goa District, to take over possession of the entire land

encroached. I submit that the petitioner, being involved in such gross illegality, does not warrant any equity or the exercise of the jurisdiction of this Hon'ble Court. The relevant orders of authorities dt. 17.09.2025; 03.09.2025; 25.08.2025; along with a letter written by this Respondent dt. 05.08.2025 are enclosed as **Annexure R-1 Colly.**

14. In passing, the Petitioner in this matter also avers that the activity of loading/unloading of iron ore does not include any destruction of wildlife et al., as would attract S. 29 of the WLPA. I state that this submission is without merit, made mechanically, and further contrary to facts/documents on record. It is the answering Respondent's categorical case that such an activity because of its polluting and destructive nature can never be permitted under S. 29 of the WLPA, and this has been spelt out in detail in P.I.L. W.P. 27/2024 filed by this Respondent. In this context, I crave leave to rely upon the position/pleadings in that petition to substantiate this argument.

15. For these reasons, I submit that no case is made out for the grant of any reliefs as sought by the Petitioner in this matter, and this petition ought to be dismissed outright.

16. I solemnly declare and say that what has been stated in paragraphs 1(p), 2(p), 3(p), 4(p), 5(p), 6(p), 7(p), 8(p), 9(p), 11(p), 12(p), 13(p), and 14(p) are true to the best of my knowledge and official documents/records, and what is stated in paragraphs 1(p), 2(p), 3(p), 4(p), 5(p), 6(p), 7(p),

8(p), 9(p), 10, 11(p), 12(p), 13(p), 14(p), and 15 are in the nature of legal submissions which I believe to be true and correct. No part of it is false and nothing material has been concealed there from, and the annexures enclosed are true and correct copies of their respective originals.

Solemnly affirmed at _____, Goa
this the ____th day of November, 2025 Deponent

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE,
SOUTH GOA DISTRICT
Matanhy Saldanha Administrative Complex, Revenue Branch,
Room No. 338, Margao-Goa **Email id: dycrev- south.goa@nic.in**
Phone No.: 0832-2794381 **Fax No.: 0832-2794402**

No. 49/08/Rev-Reg/SANG/2017 | 2043 Dated: 17/09/2025

To,
The Director,
Goa Foundation,
G-8, St. Britto's Apartments, Feira Alta,
Mapusa-Goa

Sub: - Encroachment on Sy. No. 133/6 of Calem Village, Sanguem taluka, by Shri. Govind Rama Gauns Dessai

Sir,

With reference to the above cited subject, I am to inform you that the area sought for regularisation is notified as a Reserved Forest. Therefore, the proposal of Shri. Govind Rama Gauns Dessai for regularisation is rejected. Further directions have also been issued to the Dy. Collector & SDO (Sanguem), Sanguem-Goa to take over the possession of land encroached upon by Shri. Govind Rama Gauns Dessai, as per the provision contained in the Goa Land Revenue Code, 1968. (A letter addressed to the Dy. Collector Sanguem is enclosed herewith).

This is for your kind information

Yours faithfully,

(Brucelee J.N. S. Quadros)
Deputy Collector (Revenue)
South Goa District
Margao-Goa

Encl: - As above

Copy to: 1. P.A to the Collector of South Goa District, Margao-Goa
2. Guard File

Revenue Department,
Government of Goa,
Secretariat, Porvorim-Goa 403 521

No.: 16/06/18/2024-Rev-I /2561 Dated: 03/09/2025

To,
The Collector,
South Goa District,
Matanhy Saldanha Administrative Complex,
Margao Goa

Sub:- Regularization of encroachment on Government land under survey No. 133/6 of village Calem of Sanguem taluka of Shri Govind Rama Gauns Dessai.... reg....

Madam,

The undersigned is directed to forward herewith complaint cum letter dated 05/08/2025 received from Dr. Claude Alvares, Director, Goa Foundation, Mapusa Goa for examination and comments. Further I am also directed to request you to examine the proposal referred in the subject in light of the present representation/ letter and thereafter submit proposal along with **your recommendation** so as to place the proposal before Government for decision.

Yours faithfully,

(Vrushika Kauthankar)
Under Secretary (Rev-I)

Encl: As above.

Copy to:

1. Dr. Claude Alvares, Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa Goa- 403507.
2. The Principal Chief Conservator of Forests, Forest Department, Government of Goa, Panaji Goa.
3. The Forest Settlement Officer, C/o Forest Department, Government of Goa, Panaji Goa.
4. O/c
5. Guard file.

OFFICE OF THE COLLECTOR & DISTRICT MAGISTRATE,
SOUTH GOA DISTRICT
Matanhy Saldanha Administrative Complex, Revenue Branch,
Room No. 338, Margao-Goa Email id: dycrev- south.goa@nic.in
Phone No.: 0832-2794381 Fax No.: 0832-2794402

No. 49/08/Rev-Reg/SANG/2017 /1850 Dated:25/08/2025

To,
The Deputy Collector & SDO,
Sanguem-Goa

Sub: Regularization of encroachment on Government land bearing Survey No. 133/6 of Village Calem of Sanguem Taluka of Shri Govind Rama Gauns Dessai....reg...

Sir,

With reference to the above cited subject your office vide letter No. SDO/SAN/Reg-Encr./2025/1214 dated 31/07/2025 has informed this office that a report was sought from the Dy. Conservator of Forest North Goa Division Ponda wherein they have further reported that the entire Sy. No. 133 of Calem Village is notified as proposed reserved Forest Under section 4 of Indian Forest Act, 1927.

In this regard since the area sought for regularisation is notified as reserved Forest the proposal of Shri. Govind Rama Gauns Dessai for regularisation stands rejected.

Accordingly, you are requested to take over the possession of land entirely encroachment upon by Shri. Govind Rama Gauns Dessai as per the provision contained in the Goa Land Revenue Act, 1968.

This is issued with the approval of Collector South Margao-Goa.

Yours faithfully,

(Brucelee J.N. S. Quadros)
Deputy Collector (Revenue)
South Goa District
Margao-Goa

Copy to: 1. P.A to the Collector of South Goa District, Margao-Goa
2. Guard File

GOA FOUNDATION

G-8, St Britto's Apartments, Feira Alta, Mapusa 403507 Goa, INDIA
Telephone: +91-9067176274
E-mail: goafoundation@gmail.com *Website:* www.goafoundation.org

5th August 2025

To:
The Dy Collector (Revenue)
South Goa District, Margao,
Office of the Collector & District Magistrate
Mathanhy Saldanha Administrative Complex
Revenue Branch Room No. 338,
Margao, Goa

Sub: Encroachment on Sr. No. 133/6 of Calem Village, Sanguem taluka by Shri Govind Rama Gauns Dessai

Dear Sir,

I am writing in connection with the above matter, with particular reference to your letter dated 6.12.2024 with Ref No. 49/08/REV-REG/SANG/2017/1697 addressed by you to the Under Secretary (Rev-I) Porvorim (copy enclosed).

The encroachment on Sy. No. 133/6 has been the subject of correspondence between the Goa Foundation and the Education Department which, as per Form I&XIV, is the only occupant. The land belongs to the Government of Goa.

The Education Department was informed by us that Sy. No. 133/6 has been notified under section 4 of the Indian Forest Act to be constituted as a reserve forest and in view of the notification, steps should be taken to remove the encroacher. I am enclosing a copy of the relevant Gazette Notification dated 29.11.2007 in this connection.

In the circumstances, no order on encroachment can be considered or made without the prior knowledge and consent of the forest settlement officer appointed under the notification dated 29.11.2007. Till such time as this is obtained, there is no scope for passing any orders for recognition of the encroachment on Sy. No. 133/6.

Further, no diversion of the said land can be undertaken without prior approval under the provisions of the Forest Conservation Act, 1980. Any officer of the state government who issues an order permitting diversion of forest land without prior approval obtained under FCA, 1980, is liable for inquiry and statutory penalties under that Act.

I am therefore requesting you to take this complaint into consideration in the encroachment regularisation proceedings initiated at the instance of the encroacher with your office, inform the Collector concerned, and to withdraw the order dated 6.12.2024. I look forward to hearing from you in the matter.

Yours faithfully,

Dr Claude Alvares
Director

Encl: Copy of letter of Dy Collector dated 6.12.2024
Copy of Gazette Notification dated 29.11.2007

Cc: The Collector, South Goa
The Under Secretary (Rev-I) Porvorim